

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Monique West	Team: Squad #2	CCRB Case #: 201400853	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/10/2014 1:32 AM	Location of Incident: Across from § 87(2)(b)	Precinct: 75	18 Mo. SOL 7/10/2015	EO SOL 7/10/2015	
Date/Time CV Reported Mon, 01/27/2014 2:49 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Mon, 01/27/2014 2:49 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Samuel Hui	28856	953978	PBBN
3. SGT Henry Daverin	03631	945645	PBBN

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against § 87(2)(b)	
B. Officers	Force: Officers struck § 87(2)(b) with their asps.	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D. Officers	Force: Officers hit § 87(2)(b) against inanimate objects.	
E. Officers	Discourtesy: Officers spoke rudely to § 87(2)(b)	
F. SGT Henry Daverin	Force: Sgt. Henry Daverin used physical force against § 87(2)(b)	
G. POM Samuel Hui	Force: PO Samuel Hui used physical force against § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On January 10, 2014, at approximately 1:32 a.m., Sgt. Henry Daverin and Officer Samuel Hui stopped the vehicle in which § 87(2)(b) was an occupant across from § 87(2)(b) in Brooklyn. He also encountered unidentified officers from Patrol Borough Brooklyn North. During this encounter, § 87(2)(b) alleged that he was punched over ten times (**allegation A**) and struck with asps over 20 times (**allegation B**). § 87(2)(b) alleged that after he was in handcuffs, an officer punched him in his face (**allegation C**) and another unidentified officer grabbed the back of his neck and slammed his head onto the ground (**allegation D**). When additional officers responded to the scene and asked what happened, the unidentified officers allegedly referred to § 87(2)(b) as an “asshole” and a “bastard” (**allegation E**). When § 87(2)(b) was escorted to the marked van, officers pushed him by his back, causing him to fall into the van. The officers then allegedly punched him in the face, arms and ribs (**within allegation C**). § 87(2)(b) stated that Sgt. Daverin and Officer Hui were two of these officers (**allegations F and G**). The officers then attempted to slam the door closed with his legs still hanging out (**within allegation D**). § 87(2)(b)

encl. E1-3) § 87(4-b), § 87(2)(g) t
(**allegation H**).

Mediation, Civil and Criminal Histories

Due to the force and resulting injuries alleged, this case was mediation ineligible. The Notice of Claim for this incident has been requested and will be included in the case file upon receipt.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- § 87(2)(b)
- This is the first CCRB complaint against Officer Hui during his 1 year tenure (encl. B2).
- Sgt. Daverin has been a member of the NYPD for 6 years, has had 9 previous CCRB allegations involving six cases with no substantiated allegations. § 87(2)(g)

Potential Issues

- § 87(2)(b) stated during his interview that a witness, § 87(2)(b) and his lawyer both had copies of the video footage and his lawyer also had photos of his injuries. § 87(2)(b)

§ 87(2)(b)

Multiple calls were made to § 87(2)(b) and letters were sent to his home. As of the date of this report, he has not contacted the CCRB (see IAs, encl. F1-11)

NYPD Documents

Documents were obtained from the 75th Precinct and 75th Precinct Impact for January 10, 2014:

- Sgt. Daverin's vehicle is the only one listed on the unit information sheet. Any other officers that arrived on scene never went over the radio when they arrived.
- There are no assigned vehicles listed on the roll call for any of the impact officers.
- The in-house IAB liaison called the 75th Precinct and requested the detailed roster to identify which impact officers were assigned to Sgt. Daverin on the incident date. She was told that the detailed roster for that day did not break down the impact officers to their assigned supervisors as it should. It only listed the supervisors and a list of all of the impact officers. She was told that there was no paperwork created that would list what impact officers Sgt. Daverin was working with that day.

Findings and Recommendations

Allegations not pleaded

- **Vehicle stop:** Officer Hui and Sgt. Daverin both testified that they stopped his vehicle after observing him turn without signaling. § 87(2)(b) (encl. E1-3).
- **Property (vehicle) seizure:** The vehicle did not belong to § 87(2)(b) and according to Officer Hui's memo book, was released to § 87(2)(b) who signed for it (encl. C6).
- **Frisk/Search:** § 87(2)(b) alleged that an officer frisked and searched her; however, she did not provide a sworn statement and § 87(2)(b) did not make these allegations (encl. B7-8).

Explanation of Subject Officer Identification

It is undisputed that Officer Hui and Sgt. Daverin stopped § 87(2)(b) however, § 87(2)(b) did not see who used force against him prior to him being in handcuffs nor could he identify the officers who used the discourtesies. There were other unidentified impact officers on scene and Officer Hui and Sgt. Daverin denied using the alleged force and discourtesies. Five calls were placed to § 87(2)(b) to schedule a photo array. On three of those attempts voicemail messages were left. On two of those attempts, contact was made with § 87(2)(b) and he stated that he would speak to his lawyer and then call back to schedule a photo array. Two letters were mailed and emailed to § 87(2)(b). As of the date of this report, § 87(2)(b) has not called to schedule a photo array. Therefore, allegations A, B, C, D, and E are pleaded against officers.

Recommendations

Allegation A- Force: Officers used physical force against § 87(2)(b)

Allegation B- Force: Officers struck § 87(2)(b) with their asps.

§ 87(2)(b) alleged that an officer removed his seatbelt, grabbed him by his arms and pulled him out of the vehicle. § 87(2)(b) was then punched over ten times by multiple officers in his face and on his arms. He did not know which officers did this. § 87(2)(b) stated that he was cooperative and had his hands behind his back. Officers then struck him on his back and the sides of his ribs with their asps over 20 times. He testified that he covered his face to prevent being struck in the face and was screaming for his friend. One of the officers hit § 87(2)(b) in the back of his right knee with an asp, causing him to fall to his knees. § 87(2)(b) did not know which officer did this. § 87(2)(b) was immediately placed in handcuffs.

§ 87(2)(b) stated that an officer tried to bring § 87(2)(b) down to the ground without success. Four officers came to assist. They hit him on his back and on the back of his legs approximately ten times with their asps. § 87(2)(b) was standing stiff and would not get down onto the ground. When the officers hit him in the back of his knee with the asp, § 87(2)(b) fell to his knees but still would not get down to the ground. Officers lifted him up by his hands and his feet and threw him on the ground. It took the officers approximately two minutes to get § 87(2)(b) down to the ground.

§ 87(2)(b) did not provide adequate contact information for witnesses, § 87(2)(b) and § 87(2)(b). A phone number could not be located for § 87(2)(b). The agency required contact attempts were made to § 87(2)(b) and § 87(2)(b). As of the date of this report, § 87(2)(b) and § 87(2)(b) have not contacted the CCRB (see IAs, encl. F1-11). There were no other known witnesses.

Sgt. Daverin and Officer Hui admitted to interacting with § 87(2)(b) and stated that when they approached his vehicle, § 87(2)(b) had his hand in his pocket and would not remove it, even after he was ordered out of the vehicle. Due to his failure to comply, they attempted to handcuff him. Sgt. Daverin and Officer Hui corroborated § 87(2)(b)'s statement that § 87(2)(b) resisted their attempts to place him in handcuffs. Both Officer Hui and Sgt. Daverin denied striking § 87(2)(b) with their asps or seeing other officers do so.

Patrol Guide Procedure 203-11 states that only the amount of force necessary to overcome resistance will be used to effect an arrest (encl. A1).

Although § 87(2)(b)'s friend, could not recall at what point § 87(2)(b) was in handcuffs, she in no way suggested that the officers had control of § 87(2)(b) at the time that they used force against him. She described him resisting throughout her statement. § 87(2)(b) described himself screaming with his hands in front of his face instead of behind his back. He was charged with and pled guilty to disorderly conduct: fight/violent behavior. The

§ 87(2)(g)

§ 87(2)(g)

Allegation C- Force: Officers used physical force against § 87(2)(b)

Allegation D- Force: Officers hit § 87(2)(b) against inanimate objects.

Allegation E- Discourtesy: Officers spoke rudely to § 87(2)(b)

§ 87(2)(g)

Allegation F- Force: Sgt. Henry Daverin used physical force against § 87(2)(b)

Allegation G- Force: PO Samuel Hui used physical force against § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Daverin and Officer Hui were involved in punching him after he was in handcuffs. § 87(2)(b) did not recall at which point § 87(2)(b) was handcuffed.

Both Officer Hui and Sgt. Daverin denied striking § 87(2)(b) or using any other force after § 87(2)(b) was placed in handcuffs.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date